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EXAMINER

VAN DOREN, BETH

ART UNIT PAPER NUMBER

3623

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/757,700

Applicant(s)

ANDERSON ET AL.

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/24/2002.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The following is a non-final, first office action on the merits. Claims 1-63 are pending.

Claim Objections

2. Claims 56-63 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 4, and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 1 recites "individuals who perform the task but are not designated team members". It is unclear, based on this recitation, as to who the individuals are since there is no prior recitation in the claim as to who team members are and what makes a team member designated. For examination purposes it has been construed that individuals are part of a team of individuals that all perform a task and that some of these team members are assigned to provide assessments. Clarification is required.

5. Claim 8 recites a similar limitation to claim 1. It is unclear, based on this recitation, as to who the individuals are since there is no prior recitation in the claim as to who team members are and what makes a team member designated. For examination purposes it has been construed that

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individuals are part of a team of individuals that all perform a task and that some of these team members are assigned to provide assessments. Clarification is required.

6. Claim 4 recites the limitation "the designated team members". There is insufficient antecedent basis for this limitation in the claim. As discussed above, there is no recitation as to who team members are and what makes a team member designated. For examination purposes it has been construed that individuals are part of a team of individuals that all perform a task and that some of these team members are assigned to provide assessments. Clarification is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 29-32 and 34-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Wolters, Jr., et al. (U.S. 5,826,252).

9. As per claim 29, Wolters, Jr., et al. teaches a method of distributed calibration of a test, comprising:

creating a test, the test comprising at least one test question and a provisional-best-answer corresponding to each test question (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 20-55, wherein a feedback and lessons learned interface are presented as a means to determine the knowledge, intelligence, and ability of the members with respect to tasks. The interfaces present inquiries as to title of feedback, date, detail of lesson, etc.);

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administering the test to a plurality of test takers (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 40-59, wherein the interface is administered to individuals who perform the task);

determining for each of the plurality of test takers a test score representing the degree of consistency between provisional-best-answers and test-taker-answers (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein the result of significant differences are determined);

identifying each test question for which the provisional-best-answer disagrees with the test-taker-answer provided by a predetermined proportion of test takers whose test scores represent at least a selected degree of overall consistency between provisional-best-answers and test-taker-answers (See at least column 2, lines 50-55, column 4, lines 50-65, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein each question where the individuals answer disagrees with the stored answer is identified. The answers provided by the individual shows that the project is consistent with the stored projects (as in the projects are similar)); and

deciding, responsive to the identifying step, whether the provisional-best-answers can be designated as the best answers (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein the best practice is decided).

10. As per claim 30, Wolters, Jr., et al. teaches a method wherein the predetermined proportion is less than fifty percent (See at least column 2, lines 50-55, column 4, lines 50-65, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein each question where an individual's answer disagrees with the stored answer is identified).

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11. As per claim 31, Wolters, Jr., et al. teaches a method wherein the predetermined proportion selects fewer than 100 test takers (See at least column 2, lines 50-55, column 4, lines 50-65, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein the predetermined portion is less than 100).

12. As per claim 32, Wolters, Jr., et al. teaches a method wherein the creating step comprises: initially administering the test to designated team members (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 40-59, wherein the interface is administered to individuals who perform the task); and

evaluating the test responsive to the initially administering step (See at least column 2, lines 50-55, column 4, lines 50-65, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein the test is evaluated).

13. As per claim 34, Wolters, Jr., et al. teaches a method further comprising the steps of:

collecting comments concerning the test questions and corresponding answers identified in the identifying step takers (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 40-59, wherein comments are collected); and

modifying the provisional-best-practice responsive to the collecting step (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein the best practice is amended).

14. As per claim 35, Wolters, Jr., et al. teaches a method wherein the administering step uses electronic telecommunications (See at least column 4, lines 15-50, column 6, lines 20-35, and column 7, lines 40-65, which discusses a telecommunications network).

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15. As per claim 36, claim 36 is rejected using the same art and rationale as applied in the rejection of claim 29. Wolters, Jr., et al. further teaches:

creating over a first network a test, the test comprising at least one test question and a provisional-best-answer corresponding to each test question (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 20-55, wherein a feedback and lessons learned interface are presented as a means to determine the knowledge, intelligence, and ability of the members with respect to tasks. The interfaces present inquiries as to title of feedback, date, detail of lesson, etc.); and

administering the test over a second network to a plurality test takers (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 40-59, wherein the interface is administered to individuals who perform the task).

16. As per claims 37 and 38, Wolters, Jr., et al. teaches wherein the deciding step comprises:

amending the provisional-best-answer corresponding to at least one of the test questions identified in the identifying step to reflect the most common answer, to that test question, by the predetermined proportion of test takers (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein the best practice is amended);

deciding, responsive to the amending step, whether the amended provisional-best-answer can be designated as the best answer (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein the best practice is amended and it is determined that the provisional best answer is not the best answer); and

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communicating the amended provisional-best-answer to at least one of the test takers (See at least column 4, lines 25-35, column 8, lines 1-20, and column 10, lines 1-10, wherein when the answer (or practice) changes, at least one other test taker (employee) is notified).

17. As per claim 43, claim 43 is rejected using the same art and rationale as applied in the rejection of claim 37.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 1-4, 6-8, 10-12, 14-15, 46, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolters, Jr., et al. (U.S. 5,826,252).

20. As per claim 1, Wolters, Jr., et al. teaches a method of determining a best practice for performing a task, comprising:

defining a provisional-best-practice for performing the task based on collaboration among a plurality of designated team members (See at least column 2, lines 3-10 and 45-55, column 4, lines 50-65, and column 7, lines 5-20, wherein provisional best practices for tasks are defined);

creating a test for determining individual-preferred-practice for performing the task, the test comprising at least one test question and an answer corresponding to each test question (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 20-55, wherein a feedback and lessons learned interface are presented as a means

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to determine the knowledge, intelligence, and ability of the members with respect to tasks. The interfaces present inquiries as to title of feedback, date, detail of lesson, etc.);

administering the test to a plurality of test takers comprising individuals who perform the task (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 40-59, wherein the interface is administered to individuals who perform the task);

determining for each of the plurality test takers a test score representing the degree of consistency between individual-preferred-practice and the provisional-best-practice (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein the result of significant differences are determined);

identifying each test question for which the corresponding test answer disagrees with answers to that test question provided by a predetermined proportion of test takers whose test scores represent at least a selected degree of consistency between individual-preferred-practice and the provisional-best-practice (See at least column 2, lines 50-55, column 4, lines 50-65, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein each question where the individuals answer disagrees with the stored answer is identified. The answers provided by the individual shows that the project is consistent with the stored projects (as in the projects are similar)); and

deciding, responsive to the identifying step, whether the provisional-best-practice can be designated as the best practice (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein the best practice is decided).

However, Wolters et al. does not expressly disclose administering to individuals that perform the tasks but are not designated team members.

Wolters, Jr., et al. discloses administering assessment means to individuals that perform a task to determine best practices in an organization. The interfaces include a field for the input of the name of the individual answering the questions. It would have been obvious to one of ordinary skill in the art at the time of the invention to have individuals submitting feedback that are not designated team members in order to more efficiently maintain a database of experience by allowing all members of the work force to submit answers to the questions concerning their experiences and not just individuals designated to provide feedback. See at least column 9, lines 55-65.

21. As per claims 2-4 and 6-7, claims 2-4 and 6-7 recite equivalent limitations to claims 30-32 and 34-35, respectively, and are rejected using the same art and rationale as applied in the rejection of claims 30-32 and 34-35, respectively.

22. As per claim 8, claim 8 is rejected using the same art and rationale as applied to the rejection of claim 1. Wolters, Jr., et al. further discloses:

creating over a first network a test for determining individual-preferred-practice for performing the task, the test comprising at least one test question and an answer corresponding to each test question (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 20-55, wherein a feedback and lessons learned interface are presented as a means to determine the knowledge, intelligence, and ability of the members with respect to tasks. The interfaces present inquiries as to title of feedback, date, detail of lesson, etc.); and

administering the test over a second network to a plurality of test takers comprising individuals who perform the task (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 40-59, wherein the interface is administered to individuals who perform the task).

23. As per claims 10-12 and 14-15, claims 10-12 and 14-15 recite equivalent limitations to claims 30-32 and 34-35, respectively, and are therefore rejected using the same art and rationale as applied in the rejection of claims 30-32 and 34-35, respectively.

24. As per claim 46, Wolters, Jr., et al. teaches a method for assessing compliance with a best practice for performing a task, comprising the steps of:

identifying the best practice (See at least column 2, lines 3-10 and 45-55, column 4, lines 50-65, and column 7, lines 5-20, wherein provisional best practices for tasks are defined);

creating a test to measure consistency between individual-preferred-practice for performing the task and the best practice (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 20-55, wherein a feedback and lessons learned interface are presented as a means to determine the knowledge, intelligence, and ability of the members with respect to tasks. The interfaces present inquiries as to title of feedback, date, detail of lesson, etc.);

administering the test to members of a group of individuals who perform the task (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 40-59, wherein the interface is administered to individuals who perform the task);

designating at least one member of the group as a qualified reviewer (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein at least one member of the group is a qualified reviewer),

conducting a review, by at least one qualified reviewer, of actual practices of other individuals for performing the task (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein at least one qualified reviewer reviews the differences); and

analyzing, responsive to the review conducting step, the consistency of the actual practices with the best practice (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein the best practice is determined from the stored best practice and the newly reported practices).

However, Wolters, Jr., et al. does not expressly disclose designating responsive to the administering step.

Wolters, Jr., et al. discloses administering assessment means to individuals that perform a task to determine best practices in an organization. The interfaces include a field for the input of the name of the individual answering the questions and the determining if the provided answers are new best practices. It would have been obvious to one of ordinary skill in the art at the time of the invention to have an individuals designated a qualified reviewer in response to administering the survey in order to more efficiently maintain a database of best practices by including the members that have the most qualified opinions on the review team that identifies the best answers to the questions.

25. As per claim 50, Wolters, Jr., et al. teaches a method further comprising the steps of:

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reporting the results of the analyzing step to management (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein the new best practices are reported); and

implementing the new best practices (See at least column 4, lines 25-35, column 8, lines 1-20, and column 10, lines 1-10, wherein when the answer (or practice) changes, the new practice is communicated and implemented by individuals).

However, Wolters, Jr., et al. does not expressly disclose formulating programs to train individuals in performing the best practice or conducting training, by the qualified reviewers, of other individuals in use of the best practice.

Wolters, Jr., et al. discloses identifying the best practices through assessment means and implementing determined best practices throughout the workforce. It is old and well known that employees receive training on practices employed by the company for which they work, these training sessions held by persons who familiar with the practices. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include training the individuals of Wolters, Jr., et al. about the new best practices implemented in order to increase the employees ability to efficiently and accurately perform the functions of the new best practice.

26. Claims 5, 9, 13, 16-28, 33, 39-42, 44, 45, 47-49, and 51-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolters, Jr., et al. (U.S. 5,826,252) in view of Elliott et al. (U.S. 6,431,875).

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27. As per claim 5, Wolters, Jr., et al. teaches creating a test (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 20-55).

However, Wolters does not expressly disclose changing the test.

Elliott et al. discloses changing a test (See at least column 2, lines 30-65, column 11, lines 45-65, and column 12, lines 1-25, wherein a test is changed when “bad” questions and/or answers are identified).

Both Wolters, Jr., et al. and Elliott et al. disclose questioning to determine expertise as applied to a job function. See at least column 1, lines 10-25, of Elliott et al. and figures 6-7, column 1, lines 15-25, and column 2, lines 45-60, of Wolters, Jr., et al. It would have been obvious to one of ordinary skill in the art at the time of the invention to include modifying the test that assesses the knowledge of an individual of Wolters, Jr., et al. in order to more efficiently and accurately gain a database of experience by allowing members of the work force to submit answers to questions that properly reflect their experiences and skills. See at least column 9, lines 55-65, of Wolters, Jr., et al. that discusses an experience database based on the assessments of the workers and see column 2, lines 30-65, column 11, lines 45-65, and column 12, lines 1-25, of Elliott et al. that discusses “bad” test questions and/or answers.

28. As per claim 9, Wolters, Jr., et al. teaches a method of testing individuals who perform a task for consistency between individual-preferred-practice for performing the task and a best practice for performing the task, comprising:

creating a test for determining individual-preferred-practice for performing the task, the test comprising at least one test question and an answer corresponding to test question (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column

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7, lines 20-55, wherein a feedback and lessons learned interface are presented as a means to determine the knowledge, intelligence, and ability of the members with respect to tasks. The interfaces present inquiries as to title of feedback, date, detail of lesson, etc.);

administering the test to a plurality of test takers comprising individuals who perform the task (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 40-59, wherein the interface is administered to individuals who perform the task);

determining for each of the plurality of test takers a test score representing the degree consistency between individual-preferred-practice and the best practice (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein the result of significant differences are determined);

identifying each test question for which the corresponding test answer disagrees with answers to that test question provided by a predetermined proportion of test takers whose test scores represent at least a selected degree of consistency between individual-preferred-practice and the best practice (See at least column 2, lines 50-55, column 4, lines 50-65, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein each question where the individuals answer disagrees with the stored answer is identified. The answers provided by the individual shows that the project is consistent with the stored projects (as in the projects are similar)); and

modifying the task responsive to the identifying step (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein the best practice is decided).

However, Wolters, Jr., et al. does not expressly disclose modifying the test responsive to the identifying step.

Elliott et al. discloses modifying a test responsive to identifying that a test answer disagrees with answers to that test question provided by a predetermined proportion of test takers whose test scores represent at least a selected degree of consistency (See at least column 2, lines 30-65, column 11, lines 45-65, and column 12, lines 1-25, wherein a test is modifying when “bad” questions and/or answers are identified).

Both Wolters, Jr., et al. and Elliott et al. disclose questioning to determine expertise as applied to a job function. See at least column 1, lines 10-25, of Elliott et al. and figures 6-7, column 1, lines 15-25, and column 2, lines 45-60, of Wolters, Jr., et al. It would have been obvious to one of ordinary skill in the art at the time of the invention to include modifying the test that assesses the knowledge of an individual of Wolters, Jr., et al. in order to more efficiently and accurately gain a database of experience by allowing members of the work force to submit answers to questions that properly reflect their experiences and skills. See at least column 9, lines 55-65, of Wolters, Jr., et al. that discusses an experience database based on the assessments of the workers and see column 2, lines 30-65, column 11, lines 45-65, and column 12, lines 1-25, of Elliott et al. that discusses “bad” test questions and/or answers.

29. As per claims 13, claim 13 recites equivalent limitations to claim 5 and is therefore rejected using the same art and rationale as applied in the rejection of claim 5.

30. As per claim 16, claim 16 is rejected using the same art and rationale as applied in the rejection of claim 9. Wolters, Jr., et al. further teaches:

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creating over a first network a test for determining individual-preferred-practice for performing the task, the test comprising at least one test question and an answer corresponding to each test question (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 20-55, wherein a feedback and lessons learned interface are presented as a means to determine the knowledge, intelligence, and ability of the members with respect to tasks. The interfaces present inquiries as to title of feedback, date, detail of lesson, etc.); and

administering the test over a second network to a plurality of test takers comprising individuals who perform the task (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 40-59, wherein the interface is administered to individuals who perform the task).

31. As per claim 17, Wolters, Jr., et al. teaches that the modifying step comprises:

amending the answer corresponding to at least one of the test questions identified in the identifying step to reflect the most common answer, to that test question, by the predetermined proportion of test takers (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein the best practice is amended). However, Wolters, Jr., et al. does not expressly disclose re-determining, responsive to the amending step, the test score for each of the plurality of test takers.

Elliott et al. discloses removing test questions and answers to more accurately reflect a test score of a test taker (See at least column 2, lines 30-65, column 11, lines 45-65, and column 12, lines 1-25, wherein “bad” questions and/or answers are identified and removed).

Both Wolters, Jr., et al. and Elliott et al. disclose questioning to determine expertise as applied to a job function. See at least column 1, lines 10-25, of Elliott et al. and figures 6-7, column 1, lines 15-25, and column 2, lines 45-60, of Wolters, Jr., et al. It would have been obvious to one of ordinary skill in the art at the time of the invention to include redetermining the test results based on the amending of Wolters, Jr., et al. in order to more efficiently and accurately gain a database of experience by allowing members of the work force to submit answers to questions that properly reflect their experiences and skills. See at least column 9, lines 55-65, of Wolters, Jr., et al. that discusses an experience database based on the assessments of the workers and see column 2, lines 30-65, column 11, lines 45-65, and column 12, lines 1-25, of Elliott et al. that discusses “bad” test questions and/or answers.

32. As per claims 18 and 19, Wolters, Jr., et al. teaches a method wherein the modifying step further comprises communicating the modified answer to at least one of the test takers and implementing the best practice by this communication (See at least column 4, lines 25-35, column 8, lines 1-20, and column 10, lines 1-10, wherein when the answer (or practice) changes, at least one other test taker (employee) is notified).

33. As per claim 20, Wolters, Jr., et al. teaches a method wherein the communicating step occurs over a network (See at least column 4, lines 15-50, column 6, lines 20-35, and column 7, lines 40-65, which discusses a network).

34. As per claim 21, 22, and 23, Wolters, Jr., et al. discloses:

eliminating from the test each question answer identified (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein the best practice (answer) is eliminated and changed);

communicating the eliminated question answer to at least one of the test takers (See at least column 4, lines 25-35, column 8, lines 1-20, and column 10, lines 1-10, wherein when the answer (or practice) changes, at least one other test taker (employee) is notified); and

implementing the best practice by communicating (See at least column 4, lines 25-35, column 8, lines 1-20, and column 10, lines 1-10, wherein the new answer (or practice) is used in the projects).

However, Wolters, Jr., et al. does not expressly disclose that a question is identified from the test or re-determining, responsive to the eliminating step, the test score for each of the plurality of test takers.

Elliott et al. discloses eliminating from the test each question identified (See at least column 2, lines 30-65, column 11, lines 45-65, and column 12, lines 1-25, wherein “bad” questions and/or answers are identified and removed); and

re-determining, responsive to the eliminating step, the test score for each of the plurality of test takers (See at least column 2, lines 30-65, column 11, lines 45-65, and column 12, lines 1-25, wherein questions and/or answers to more accurately reflect a test score of a test taker).

Both Wolters, Jr., et al. and Elliott et al. disclose questioning to determine expertise as applied to a job function. See at least column 1, lines 10-25, of Elliott et al. and figures 6-7, column 1, lines 15-25, and column 2, lines 45-60, of Wolters, Jr., et al. It would have been obvious to one of ordinary skill in the art at the time of the invention to include eliminate a test question and redetermine the test results based on the amending of Wolters, Jr., et al. in order to more efficiently and accurately gain a database of experience by allowing members of the work force to submit answers to questions that properly obtain information that reflects their

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experiences and skills. See at least column 9, lines 55-65, of Wolters, Jr., et al. that discusses an experience database based on the assessments of the workers and see column 2, lines 30-65, column 11, lines 45-65, and column 12, lines 1-25, of Elliott et al. that discusses “bad” test questions and/or answers.

35. As per claim 24, claim 24 recites equivalent limitations to claim 20 and is therefore rejected using the same art and rationale as applied in the rejection of claim 20.

36. As per claim 25, Wolters, Jr., et al. teaches wherein the modifying step comprises:
collecting comments concerning the questions and corresponding answers from the predetermined proportion of test takers (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 40-59, wherein comments are collected);
amending, responsive to the collecting step, the answer corresponding to at least one question identified in the identifying step (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein the answer (best practice) is amended). Wolters, Jr., et al. does not expressly disclose re-determining, responsive to the amending step, the test score for each of the plurality of test takers.

Elliott et al. discloses re-determining, responsive to the eliminating step, the test score for each of the plurality of test takers (See at least column 2, lines 30-65, column 11, lines 45-65, and column 12, lines 1-25, wherein questions and/or answers to more accurately reflect a test score of a test taker).

Wolters, Jr., et al. and Elliott et al. both disclose questioning to determine expertise as applied to a job function. See at least column 1, lines 10-25, of Elliott et al. and figures 6-7, column 1, lines 15-25, and column 2, lines 45-60, of Wolters, Jr., et al. It would have been

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obvious to one of ordinary skill in the art at the time of the invention to include eliminate a test question and redetermine the test results based on the amending of Wolters, Jr., et al. in order to more efficiently and accurately gain a database of experience by allowing members of the work force to submit answers to questions that properly obtain information that reflects their experiences and skills. See at least column 9, lines 55-65, of Wolters, Jr., et al. that discusses an experience database based on the assessments of the workers and see column 2, lines 30-65, column 11, lines 45-65, and column 12, lines 1-25, of Elliott et al. that discusses “bad” test questions and/or answers.

37. As per claims 26 and 27, Wolters, Jr., et al. teaches a method wherein the amending step further comprises communicating to each test taker the collected comments as well as implementing the best practice by communicating the collected comments to at least one of the test takers (See at least column 4, lines 25-35, column 8, lines 1-20, and column 10, lines 1-10, wherein when the answer (or practice) changes, at least one other test taker (employee) is notified).

38. As per claim 28, claims 28 recites equivalent limitations to claim 20 and is therefore rejected using the same art and rationale as applied in the rejection of claim 20.

39. As per claim 33, claim 33 is rejected using the same art and rationale as applied in the rejection of claim 5.

40. As per claims 39, 41, and 42, claims 39, 41, and 42 recite equivalent limitations to claims 20, 23, and 24, respectively, and are therefore rejected using the same art and rationale as applied in the rejection of claims 20, 23, and 24, respectively.

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41. As per claim 40, claim 40 is rejected using the same rationale and art as applied in the rejection of claims 21, 22, and 23 above.

42. As per claims 44 and 45, claims 44 and 45 recite equivalent limitations to claims 26 and 28, respectively, and are therefore rejected using the same art and rationale as applied in the rejection of claims 26 and 28, respectively.

43. As per claim 47, Wolters, Jr., et al. teaches a method wherein the identifying step comprises:

convening a plurality of experts in the performance of the task (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65);

collaborating, among the experts, to develop a best practice concerning the performance of the task (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65); and

converging on a best practices in the system concerning the task (See at least column 2, lines 3-10 and 45-55, column 4, lines 50-65, and column 7, lines 5-20, wherein provisional best practices for tasks are defined).

However, Wolters, Jr., et al. does not expressly disclose collaborating, among the experts to develop a questionnaire, administering the questionnaire to the plurality of experts with respect to at least one case study involving performance of the task, or evaluating the results of the questionnaire-administering step.

Elliott et al. discloses collaborating among experts to develop a questionnaire, validating the questionnaire using different case instances, and evaluating the results (See at least column 7,

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lines 65-67, column 8, lines 45-67, column 9, lines 50-65, column 10, lines 65-67, column 11, lines 1-15).

Wolters, Jr., et al. discloses assessment means completed by individuals that perform a task and used by qualified reviewers to determine best practices in an organization. The interfaces implemented in the system include a field for the input of the information. Elliott et al. discloses building an appropriate interface to allow for the input of the information. It would have been obvious to one of ordinary skill in the art at the time of the invention to have the experts develop the questionnaire in order to more efficiently and accurately gain a database of experience by creating a questionnaire that elicits from members of the work force information that properly reflects their experiences and skills. See at least column 9, lines 55-65, of Wolters, Jr., et al. that discusses an experience database based on the assessments of the workers and see column 2, lines 30-65, column 11, lines 45-65, and column 12, lines 1-25, of Elliott et al. that discusses “bad” test questions and/or answers.

44. As per claim 48, Wolters, Jr., et al. teaches a method wherein the review-conducting step comprises conducting a review, by least one qualified reviewer, of actual practices, by other individuals employed by the same organization, for performing the task (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein at least one member of the group is a qualified reviewer).

45. As per claim 49, Wolters, Jr., et al. teaches a method wherein the designating step comprises designating, responsive to the administering step, at least one member of the group as a qualified reviewer to review actual practices of a statistically significant sample of a relevant population of individuals who perform the task (See at least column 2, lines 50-55, column 7,

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lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein at least one member of the group is a qualified reviewer).

46. As per claim 51, claim 51 is rejected using the same art and rationale as applied in the rejection of claim 47. Furthermore, Wolters, Jr., et al. discloses creating a test to measure consistency between individual-preferred-practice for performing the task and the best practice (See at least figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 20-55, wherein a feedback and lessons learned interface are presented as a means to determine the knowledge, intelligence, and ability of the members with respect to tasks of a project. The interfaces present inquiries as to title of feedback, date, detail of lesson, etc.);

administering the test to a members of a group of individuals who perform the task (See figures 6 and 7, column 2, lines 3-10, 25-35, and 45-55, column 6, lines 20-30, and column 7, lines 40-59, wherein the interface is administered to individuals who perform the task);

designating at least one member of the group as a qualified reviewer (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein at least one member of the group is a qualified reviewer),

conducting a review, by at least one qualified reviewer, of actual practices of other individuals for performing the task (See at least column 2, lines 50-55, column 7, lines 40-65, column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein at least one qualified reviewer reviews the differences); and

analyzing, responsive to the review-conducting step, the consistency of the actual practices with the best practice (See at least column 2, lines 50-55, column 7, lines 40-65,

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column 8, lines 1-20, column 9, lines 5-35 and 58-65, wherein the best practice is determined from the stored best practice and the newly reported practices).

However, Wolters, Jr., et al. does not expressly disclose designating responsive to the administering step.

Wolters, Jr., et al. discloses administering assessment means to individuals that perform a task to determine best practices in an organization. The interfaces include a field for the input of the name of the individual answering the questions and the determining if the provided answers are new best practices. It would have been obvious to one of ordinary skill in the art at the time of the invention to have an individuals designated a qualified reviewer in response to administering the survey in order to more efficiently maintain a database of best practices by including the members that have the most qualified opinions on the review team that identifies the best answers to the questions.

47. As per claims 52, 53, 54, and 55, claims 52, 53, 54, and 55 recite equivalent limitations to claims 47, 20, 20, and 47, respectively, and are therefore rejected using the same art and rationale as applied in the rejection of claims 47, 20, 20, and 47, respectively.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Havens (U.S. 5,909,669) discloses a benchmark database and surveys that reflect worker knowledge.

D'Alessandro (U.S. 6,556,974) teaches a system for evaluating current business performance and practices using a telecommunications means and tests.

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McGovern et al. (U.S. 5,918,207) teaches determining a baseline of a company and the skills of an employee to meet customer need.

Barton et al. (U.S. 2002/0059093) discloses identifying and quantifying compliance issues using questions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


bvd

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